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9 **Counsel for Federal Defendants**

10 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12
13 CENTER FOR BIOLOGICAL DIVERSITY,)

14 Plaintiff,)

15 vs.)

16 KEN SALAZAR, et al.,)

17 Defendants,)

18 and)

19 SAND CITY, CALIFORNIA and SAND
CITY REDEVELOPMENT AGENCY,)

20 Intervenor,)

21 SECURITY NATIONAL GUARANTY, INC.,)

22 Intervenor,)

23 FRIENDS OF OCEANO DUNES, INC. and
24 OXFOOT ASSOCIATES, LLC,)

25 Intervenor.)
_____)

Case No. 3:08-cv-4594-PJH

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER TO
AMEND SETTLEMENT
AGREEMENT AFFIRMED
BY THIS COURT ON MAY 1,
2009**

26 Plaintiff the Center for Biological Diversity ("Plaintiff") and Defendants Ken
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1 Salazar,^{1/} Secretary of the United States Department of the Interior; Rowan Gould,^{2/} Acting
2 Director of the United States Fish and Wildlife Service; and the United States Fish and
Wildlife Service (“Service”) (collectively, “Federal Defendants”) declare as follows:

3 WHEREAS, this Court adopted a stipulated settlement agreement (“Agreement”)
4 between Plaintiff and Federal Defendants as an enforceable order of this Court on May 1,
2009, Dkt. No. 56;

5 WHEREAS, the Agreement currently states:

6 The Service will conduct a rulemaking to consider potential revisions to the
7 designated critical habitat for the Pacific Coast population of the western snowy
plover under Sections 4(b)(2) and 4(a)(3)(B) of the ESA, according to the following
8 schedule:

9 a. on or before December 1, 2010, the Service will submit to the Federal
Register for publication a proposed regulation setting forth any proposed
10 revisions to the critical habitat; and

11 b. on or before June 5, 2012, the Service will submit to the Federal Register
for publication a final determination on any proposed revisions to the critical
12 habitat.

13 Dkt. No. 55-2 at ¶ 1;

14 WHEREAS, the Agreement states that, “[t]he Parties may seek to modify the
deadlines specified in Paragraph 1 for good cause shown, consistent with the Federal Rules
15 of Civil Procedure,” Dkt. No. 55-2 at ¶ 2;

16 WHEREAS, because consideration of issues relating to the determination have proven
to be more complex than anticipated, FWS needs three additional months to issue the
17 proposed regulation setting forth any proposed revisions to the critical habitat;

18 WHEREAS, the parties to the Agreement have agreed that extending the deadline for
the proposed regulation is acceptable and appropriate;

19 NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES
20 AS FOLLOWS:

21 Paragraph 1 of the Agreement shall be revised to read as follows:

22 The Service will conduct a rulemaking to consider potential revisions to the
designated critical habitat for the Pacific Coast population of the western snowy
23 plover under Sections 4(b)(2) and 4(a)(3)(B) of the ESA, according to the following
schedule:

24 a. on or before March 1, 2011, the Service will submit to the Federal Register

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26 ^{1/} Pursuant to Fed. R. Civ. P. 25(d), Ken Salazar is substituted as a defendant for Dirk
Kempthorne.

27 ^{2/} Pursuant to Fed. R. Civ. P. 25(d), Rowan Gould is substituted as a defendant for H. Dale
28 Hall.

1 for publication a proposed regulation setting forth any proposed revisions to
2 the critical habitat; and

3 b. on or before June 5, 2012, the Service will submit to the Federal Register
4 for publication a final determination on any proposed revisions to the critical
5 habitat.

6 IT IS SO AGREED AND AFFIRMED,

7 Dated: 11/30/2010



8 Honorable Phyllis J. Hamilton
9 Judge, United States District Court
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1 Dated: November, 24 2010

Respectfully submitted,

3 IGNACIA S. MORENO
4 Assistant Attorney General
5 U.S. Department of Justice
6 Environment & Natural Resources Division

7 SETH M. BARSKY, Acting Section Chief
8 KRISTEN L. GUSTAFSON, Assistant Chief

9 Dated: November 24, 2010

By: /s/ Clifford E. Stevens, Jr.
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Counsel for Federal Defendants

17 Dated: November 24, 2010

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